

## § 9901.302

(b) Any pay system prescribed under this subpart will be established in conjunction with the classification system described in subpart B of this part.

(c) Any pay system prescribed under this subpart will be established in conjunction with the performance management system described in subpart D of this part.

### § 9901.302 Coverage.

(a) This subpart applies to eligible DoD employees and positions in the categories listed in paragraph (b) of this section, subject to a determination by the Secretary under § 9901.102(b)(2).

(b) The following employees of, or positions in, DoD organizational and functional units are eligible for coverage under this subpart:

(1) Employees and positions who would otherwise be covered by the General Schedule pay system established under 5 U.S.C. chapter 53, subchapter III;

(2) Employees and positions who would otherwise be covered by a prevailing rate system established under 5 U.S.C. chapter 53, subchapter IV;

(3) Employees in senior-level (SL) and scientific or professional (ST) positions who would otherwise be covered by 5 U.S.C. 5376;

(4) Members of the Senior Executive Service (SES) who would otherwise be covered by 5 U.S.C. chapter 53, subchapter VIII, subject to § 9901.102(d); and

(5) Such others designated by the Secretary as DoD may be authorized to include under 5 U.S.C. 9902.

(c) This section does not apply in determining coverage under § 9901.361 (dealing with premium pay).

### § 9901.303 Waivers.

(a) When a specified category of employees is covered under this subpart—

(1) The provisions of 5 U.S.C. chapter 53 are waived with respect to that category of employees, except as provided in § 9901.107 and paragraphs (b) and (c) of this section; and

(2) The provisions of 5 U.S.C. chapter 55, subchapter V (except section 5545b), are waived with respect to that category of employees to the extent that those employees are covered by alternative premium pay provisions estab-

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lished by the Secretary under § 9901.361 in lieu of the provisions in 5 U.S.C. chapter 55, subchapter V.

(b) The following provisions of 5 U.S.C. chapter 53 are not waived:

(1) Sections 5311 through 5318, dealing with Executive Schedule positions;

(2) Section 5371, insofar as it authorizes OPM to apply the provisions of 38 U.S.C. chapter 74 to DoD employees in health care positions covered by section 5371 in lieu of any NSPS pay system established under this subpart or the following provisions of title 5, U.S. Code: Chapters 51, 53, and 61, and subchapter V of chapter 55. The reference to “chapter 51” in section 5371 is deemed to include a classification system established under subpart B of this part; and

(3) Section 5377, dealing with the critical pay authority.

(c) Section 5379 is modified. The Secretary may establish and administer a student loan repayment program for DoD employees, except that the Secretary may not make loan payments for any noncareer appointee in the SES (as defined in 5 U.S.C. 3132(a)(7)) or for any employee occupying a position that is excepted from the competitive service because of its confidential, policy-determining, policy-making, or policy-advocating character. Notwithstanding § 9901.302(a), any DoD employee otherwise covered by section 5379 is eligible for coverage under the provisions established under this paragraph, subject to a determination by the Secretary under § 9901.102(b)(2).

### § 9901.304 Definitions.

In this part:

*Band* means *pay band*.

*Band rate range* means the range of rates of basic pay (excluding any local market supplements) applicable to employees in a particular pay band, as described in § 9901.321. Each band rate range is defined by a minimum and maximum rate.

*Basic pay* has the meaning given that term in § 9901.103.

*Bonus* means an element of the performance payout that consists of a one-time lump-sum payment made to employees. It is not part of basic pay.

*Career group* has the meaning given that term in § 9901.103.

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*Competencies* has the meaning given that term in §9901.103.

*Contribution* has the meaning given that term in §9901.103.

*Contribution assessment* means the determination made by the pay pool manager as to the impact, extent, and scope of contribution that the employee's performance made to the accomplishment of the organization's mission and goals.

*CONUS* or *Continental United States* means the States of the United States, excluding Alaska and Hawaii, but including the District of Columbia.

*Extraordinary pay increase* or *EPI* means a discretionary basic pay increase or bonus to reward an employee at the highest performance level who has been assigned the maximum number of shares available under the rating and contribution scheme when the payout formula does not adequately compensate them for the employee's extraordinary performance and contribution, as described in §9901.344(b).

*Local market supplement* means a geographic- and occupation-based supplement to basic pay, as described in §9901.332.

*Modal rating* means, for the purpose of pay administration, the most frequent rating of record assigned to employees in the same pay band within a particular pay pool for a particular rating cycle.

*Pay band* or *band* has the meaning given that term in §9901.103.

*Pay pool* means the organizational elements/ units or other categories of employees that are combined for the purpose of determining performance payouts. Each employee is in only one pay pool at a time. *Pay pool* also means the amount designated for performance payouts to employees covered by a pay pool.

*Pay schedule* has the meaning given that term in §9901.103.

*Performance* has the meaning given that term in §9901.103.

*Performance payout* means the total monetary value of a performance pay increase and bonus provided under §9901.342.

*Performance share* means a unit of performance payout awarded to an employee based on performance. Performance shares may be awarded in mul-

tiples commensurate with the employee's performance and contribution rating level.

*Performance share value* means a calculated value for each performance share based on pay pool funds available and the distribution of performance shares across employees within a pay pool, expressed as a percentage or fixed dollar amount.

*Promotion* has the meaning given that term in §9901.103.

*Rating of record* has the meaning given that term in §9901.103.

*Reassignment* has the meaning given that term in §9901.103.

*Reduction in band* has the meaning given that term in §9901.103.

*Standard local market supplement* means the local market supplement that applies to employees in a given pay schedule or band who are stationed within a specified local market area (the boundaries of which are defined under §9901.332(b)), unless a targeted local market supplement applies.

*Targeted local market supplement* means a local market supplement established to address recruitment or retention difficulties or other appropriate reasons and which applies to a defined category of employees (based on occupation or other appropriate factors) in lieu of the standard local market supplement that would otherwise apply.

*Unacceptable performance* has the meaning given that term in §9901.103.

### §9901.305 Bar on collective bargaining.

Pursuant to 5 U.S.C. 9902(f)(4) and (m)(7), any pay program established under authority of this subpart is not subject to collective bargaining. This bar on collective bargaining applies to all aspects of the pay program, including but not limited to coverage decisions, the design of pay structures, the setting and adjustment of pay levels, pay administration rules and policies, and administrative procedures and arrangements.

#### OVERVIEW OF PAY SYSTEM

### §9901.311 Major features.

Through the issuance of implementing issuances, the Secretary will